

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

-----X
LORENA VELASQUEZ, et al.,

Plaintiffs,

-against-

SUFFOLK POLICE (7TH PRECINCT), et al.,

Defendants.
-----X

AZRACK, United States District Judge:

ORDER

19-CV-5368 (JMA) (AKT)

FILED
CLERK

1/13/2020 4:11 pm

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

On September 19, 2019, pro se plaintiff Lorena Velasquez (“Plaintiff”) filed a complaint pursuant to 42 U.S.C. § 1983 in this Court on behalf of herself and her two minor children, together with an application to proceed in forma pauperis. (ECF No. 1.) On September 24, 2019, Plaintiff filed an amended complaint. (ECF No. 6.) By Order dated December 11, 2019, the Court granted Plaintiff’s application to proceed in forma pauperis and sua sponte dismissed the amended complaint without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim for relief. (ECF No. 7.) Plaintiff was granted thirty (30) days within which to amend her complaint to properly state a claim. (Id.)

Also on December 11, 2019, Plaintiff filed a letter wherein she expressed disagreement with the dismissal of her amended complaint and requested that her case “be review[ed] by another Judge.” (ECF No. 8.) On December 20, 2019 and January 6, 2020, mail sent to Plaintiff at her address of record was returned to the Court marked “undeliverable.” (ECF Nos. 9, 10.) On December 26, 2019, Plaintiff filed a single-page document entitled “Amended Complaint,” together with a copy of her December 11, 2019 letter and the Court’s instruction packet for pro se litigants entitled “How to Amend Your Complaint.” (ECF No. 11.)

Because the Amended Complaint filed on December 26, 2019 does not cure any of the

deficiencies noted in the Court's December 11, 2019 Order, the Amended Complaint is dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons set forth in that Order and attached hereto. In an abundance of caution and given Plaintiff's pro se status, she is granted an additional thirty (30) days from the date of this Order to file a proper amended complaint in accordance with the guidance set forth in the December 11, 2019 Order and the Court's instruction packet. Plaintiff is reminded that an amended complaint completely replaces all prior complaints. Accordingly, any amended complaint must include a caption identifying the parties and set forth the nature of the claims asserted and the factual basis therefore. Plaintiff is cautioned that her failure to timely comply with this Order may lead to the dismissal of her claims with prejudice and any claims brought on her children's behalf without prejudice. Finally, to the extent Plaintiff's December 11, 2019 letter is liberally construed as a motion for recusal, the application is denied.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that in forma pauperis status for the purpose of an appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff at her last known address. Plaintiff is further reminded that she must keep her address current with the Court.

SO ORDERED.

Dated: January 13, 2020
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE